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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,479	04/01/2004	Jeffrey T. Babicz	30349	1210
23405	7590	01/25/2006	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC 5 COLUMBIA CIRCLE ALBANY, NY 12203			LOCKETT, KIMBERLY R	
			ART UNIT	PAPER NUMBER
			2837	

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,479

Applicant(s)

BABICZ, JEFFREY T.

Examiner

Kim R. Lockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-6, and 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 113/106
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

-Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 9, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunker in view of Taylor.

Bunker discloses the use of a stringed musical instrument comprising a body, a neck, one or more strings stretched over said body and said neck (column 6, lines 18-21); and mounting means for mounting the neck to the body. Bunker further discloses the use of a neck and body that have adjoining means for providing a tightly fitting neck body interface so that the neck can be securely mounted to the body by the mounting means (column 5, lines 65-68).

Bunker does not disclose the specific use of an adjustment means to move the neck vertically without changing the angle of the neck relative to the body.

Taylor discloses the use of a stringed musical instrument with an adjustment means to move the neck vertically without changing the angle of the neck relative to the body (see figures 9-11). Taylor further discloses the use of a musical instrument wherein the adjusting means also comprises a height adjustment screw insert fixably secured to the neck; and a height adjustment screw extending from the back of the body through the height adjustment screw

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insert, the height adjustment screw fixable threadingly engaging the body to the neck and providing for the adjustment of the vertical height of the neck relative to the body by turning the height adjustment screw in a clockwise or counter clockwise direction to increase or decrease the distance the neck extends from the body (see figures 8 and 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as disclosed by Bunker with the adjustment means as disclosed by Taylor in order to provide a string tension biasing system.

3. Claims 3- 5 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunker in view of Taylor and Steinberger.

Bunker discloses the use of a stringed musical instrument comprising a body, a neck, one or more strings stretched over said body and said neck (column 6, lines 18-21); and mounting means for mounting the neck to the body. Bunker further discloses the use of a neck and body that have adjoining means for providing a tightly fitting neck body interface so that the neck can be securely mounted to the body by the mounting means (column 5, lines 65-68).

Bunker does not disclose the specific use of an adjustment means to move the neck vertically without changing the angle of the neck relative to the body.

Taylor discloses the use of a stringed musical instrument with an adjustment means to move the neck vertically without changing the angle of the

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neck relative to the body (see figures 9-11). Taylor further discloses the use of a musical instrument wherein the adjusting means also comprises a height adjustment screw insert fixably secured to the neck; and a height adjustment screw extending from the back of the body through the height adjustment screw insert, the height adjustment screw fixable threadingly engaging the body to the neck and providing for the adjustment of the vertical height of the neck relative to the body by turning the height adjustment screw in a clockwise or counter clockwise direction to increase or decrease the distance the neck extends from the body (see figures 8 and 10).

Bunker and Taylor do not disclose the use of a spring to provide pressure.

Steinberger discloses the use of a string musical instrument with a spring, an adjustable neck and a screw to provide adjustment pressure (see abstract). Steinberger also discloses the use of a neck block with a recess for the bottom of the neck where the neck has a bottom approximately the same size as the recess (see figure 5) and the use of guides to accommodate the bottom of the neck (see figure 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device as disclosed by Bunker with the adjustment means as disclosed by Taylor and the screw as disclosed by Steinberger in order to provide an efficient means of adjusting a guitar neck using a spring pressure mechanism.

Allowable Subject Matter

4. Claims 17 and 8 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.
6. The applicant argues that the newly cited Taylor reference does not provide a vertical continuous adjustment. However Taylor is continuously adjustable device (column 9, lines 30-40). The applicant also argues the use of a neck that can be adjusted and doesn't require the user " to loosen any screws or perform any addition mechanical adjustments before manually adjusting the vertical height of the neck", it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
7. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.


For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose

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telephone number is 800-786-9199. Assistance is also available on the Internet at www.uspto.gov.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose **telephone number is (703) 308-7615, after 2/3/04 my new number will be (571) 272-2067.** The examiner can normally be reached on Tuesday through Friday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2107.



**KIMBERLY LOCKETT
PRIMARY EXAMINER**